



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
HEADQUARTERS, UNITED STATES ARMY TRAINING AND DOCTRINE COMMAND
950 JEFFERSON AVENUE
FORT EUSTIS VIRGINIA 23604-5700

ATCS-E

17 September 2018

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: TRADOC Policy Letter 4, Equal Opportunity (EO) and Sexual Harassment/Assault Response and Prevention (SHARP) Program

1. References:

a. Department of Defense (DoD) Instruction 1020.03 (Harassment Prevention and Response in the Armed Forces), February 8, 2018.

b. Department of Defense Instruction, 6495.02 (Sexual Assault Prevention and Response (SAPR) Program Procedures), May 24, 2017.

c. Army Directive 2015-39 (Inclusion of Sexual Orientation in the Military Equal Opportunity Program), 14 October 2015.

d. Army Regulation 600-20 (Army Command Policy), 6 November 2014.

2. This policy letter supersedes Policy Letter 8, Equal Opportunity, 12 Nov 2015; and Policy Letter 23, Sexual Harassment/Assault Response and Prevention (SHARP), 15 Jul 2016.

3. Sexual harassment and sexual assault are unacceptable and contradict the values of the Army and our organization. I am fully committed to the TRADOC SHARP Program, and ensuring a safe living and working environment for our entire TRADOC team (Soldiers, Civilian employees, and Family members). Ultimately, we must ensure our TRADOC team understands we will not tolerate, condone, or ignore incidents of sexual harassment or sexual assault reports. Sexual harassment and sexual assault destroys teamwork and negatively affects combat readiness and are punishable under UCMJ and federal and civilian laws. We must strive to treat everyone with dignity and respect; consider all allegations of inappropriate behavior with the utmost seriousness, protect the privacy of victims, motivate bystanders to intervene, and hold offenders accountable. Reporting options, victim rights, definitions, and explanations of sexual assault and sexual harassment are attached (Encl 1).

4. Diversity in today's Army is reflective of the changing Nation we serve. I support and am committed to the concepts, policies, and objectives of the Army's Equal Opportunity (EO) Program. I expect all TRADOC leaders to ensure a workplace for our Soldiers that is free from harassment and unlawful discrimination on the basis of race, color, religion, national origin, sex (gender identity), or sexual orientation. Gender identity is not a standalone basis of discrimination; it is a subset under sex. I am strongly committed to ensuring discrimination does not exist in our policies, practices, or actions and expect

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no less than complete support by all within TRADOC. Successful mission accomplishment is dependent upon an environment where diversity is respected, policies and procedures are transparent, inclusion is practiced, and all team members are treated with dignity and respect. Commanders, leaders, and supervisors should encourage Soldiers to first use their chain of command to resolve their concerns and complaints. In the event a Soldier or Family member wishes to file an EO complaint, procedures for doing so are attached (Encl 2).

5. The command will not retaliate against an individual who makes or prepares a protected EO or SHARP-related communication.

6. This policy is effective until superseded or rescinded.

2 Encls



STEPHEN J. TOWNSEND
General, U.S. Army
Commanding

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SHARP Definitions and Guidance

1. Sexual Harassment is a form of sex discrimination involving unwelcomed sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature. Any person in a supervisory or command position who uses or condones implicit or explicit sexual behavior to control, influence, or affect the career, pay, or job of a military or civilian member is engaging in sexual harassment. Complaints of sexual harassment by service members or their Family members may be filed through the chain of command, the next higher echelon commander, SHARP representative, or inspector general (IG). Civilian employees will file complaints through their management officials, IG, or Equal Employment Office. There are three types of complaints:

a. An informal complaint is one that a Soldier or Family member does not wish to file in writing. It is not subject to a time suspense, and the chain of command or management officials normally handle the resolution process.

b. A formal complaint is one that a complainant files in writing and swears to the accuracy of the information. Active Duty Soldiers have 60-calendar days, and Civilian employees have 45-calendar days from the date of the incident to file a complaint of sexual harassment. Commanders at all levels, along with the complainants, will follow the procedures for filing formal or informal complaints outlined in Appendix C of AR 600-20, Army Command Policy.

c. An anonymous complaint is one received by a commanding officer or supervisor regardless of the means of transmission from an unknown or unidentified source alleging harassment. The individual (or source) is not required to divulge any personally identifiable information.

2. Sexual Assault is a crime defined by intentional sexual contact characterized by the use of force, physical threat, or abuse of authority; or when the victim does not or cannot consent. Sexual assault includes rape, nonconsensual sodomy (oral or anal sex), indecent assault (unwanted, inappropriate sexual contact or fondling), or attempts to commit these acts. Sexual assault can occur without regard to gender, spousal relationship, or age of victim.

3. Consent means words or overt acts indicating a freely given agreement to sexual conduct by a competent person. A sleeping, unconscious, or incompetent person cannot consent to a sexual act.

4. Reports. There are two types of reporting options for adult victims of sexual assault (Family Advocacy addresses assaults involving minors and intimate partners). The Army's exception to policy allowing Department of the Army Civilians to receive SHARP services and file both restricted and unrestricted cases in CONUS ended January 2018. Department of the Army Civilians seeking guidance from SHARP personnel will be referred to community-based crisis services and support organizations. Providing such assistance to Department of the Army Civilians will not generate any SHARP reporting

until an extension of the exception to policy is signed. The only exception is at an OCONUS location.

a. Restricted reporting allows a Soldier or Family member who is a victim of sexual assault to disclose the details of their assault to a sexual assault response coordinator, victim advocate, chaplain, or healthcare provider and receive medical treatment and counseling on a confidential basis without triggering an official investigation.

b. Unrestricted reporting allows a Soldier or Family member who is sexually assaulted and desires medical treatment, counseling, and an official investigation to report the assault to the chain of command and other official channels, including the Criminal Investigative Division, IG, or provost marshal. Law enforcement will investigate all unrestricted reports and protect the rights of all parties involved.

5. Retaliation is an umbrella term encompassing actions taken by the chain of command or peers/coworkers such as engaging in ostracism or maltreatment, taking or threatening to take an adverse personnel action, or withholding or threatening to withhold a favorable personnel action in response to the protected communication.

6. Commanders have a responsibility to ensure community safety and due process of law, but they must also recognize the importance of protecting the privacy of victims under their command. After a report of sexual assault, commanders will also ensure compliance with procedures in Appendix F, AR 600-20. Additional resource guides for Army leaders are located at <http://sharp.army.mil/>.

7. Victim Rights:

- o The right to be treated with fairness and respect for your dignity and privacy.
- o The right to be reasonably protected from the accused offender.
- o The right to reasonable, accurate, and timely notice of public preliminary hearings, pre-trial confinement hearings, court proceedings, and clemency and parole hearings related to the offense.
- o The right to be present at all public proceedings related to the offense unless the hearing officer or military judge determines that your testimony would be materially altered if you as the victim heard other testimony.
- o The right to reasonably confer with the prosecutor/Trial Counsel in the case.
- o The right to receive available restitution.
- o The right to be reasonably heard at: 1) a public hearing concerning the continuation of any pre-trial confinement of the accused; 2) a sentencing hearing related to the offense; 3) a public Military Department Clemency and Parole Board hearing related to the offense.
- o The right to submit a written statement for the consideration of the Convening Authority prior to taking action on findings and sentence.
- o The right to proceedings free from unreasonable delay.
- o The right to be provided information, if applicable, about the conviction, sentencing, imprisonment, Convening Authority's action, appellate review, and release of the offender.

8. TRADOC Policy Letter 3 (Equal Employment Opportunity) also details the procedures for dealing with sexual harassment complaints for civilian employees.

TRADOC Procedures for Processing EO Complaints

1. The EO complaint system provides a process for Soldiers and their Family members to seek relief from perceived harassment and unlawful discrimination or unfair treatment on the basis of race, color, national origin, religion, sex, or sexual orientation. Sexual orientation is defined as homosexuality, bisexuality, or heterosexuality, whether such orientation is actual or perceived, and includes association with another individual of a particular sexual orientation. Prior to pursuing an EO complaint, efforts should be made to solve the alleged problem at the lowest possible level within an organization.

2. An informal EO complaint is a complaint that a Soldier or Soldier's Family member does not wish to file in writing. Informal EO complaints can be resolved directly by the individual with the help of another unit member, the Equal Opportunity leader, commander, or other individuals in the complainant's chain of command. Unlike a formal EO complaint, informal EO complaints are not subject to a set timeline.

3. Formal EO complaints are EO complaints filed in writing. They are sworn to by the complainant as to the accuracy of the information. Formal EO complaints are filed with the organization or unit's Equal Opportunity Advisor. Formal EO complaints follow specific procedures, are subject to regulatory timelines, and must include documentation of the actions taken. An individual files a formal EO complaint using a DA Form 7279 (Equal Opportunity Complaint Form).

4. Should a Soldier or Family member wish to initiate a formal EO complaint, they have 60-calendar days from the date of the alleged incident to file the formal complaint. This time limit is established to allow for a prompt inquiry or investigation that ensures reasonable availability of witnesses, accurate recollection of specific events, and preservation of evidence relevant to the complaint and allegations. If a formal complaint is received more than 60-calendar days after the alleged incident, the commander may, at his or her discretion, still conduct an investigation into the allegations or appoint an investigating officer. In deciding whether to conduct an investigation, the commander should consider the reason for the delay, the availability of witnesses, and whether a full and fair inquiry or investigation can still be conducted.

5. Although the processing of EO complaints through the unit chain of command is strongly encouraged, it will not serve as the only resource available to Soldiers to resolve complaints. Should the complainant feel uncomfortable in filing an EO complaint with his/her unit chain of command, or should the complaint be against a member of that chain of command, a number of alternative agencies exist that may assist in resolving the potential complainant's concerns. Each of the agencies listed below provide expertise in very specific subject areas that may alleviate the need for initiating a formal EO complaint. Commanders will not preclude Soldiers from using other options in accordance with the procedures inherent to or established by each agency. Other Army resources available to a Soldier or their Family member are:

- Someone in a higher echelon of the complainant's chain of command

- The Office of the Inspector General
- The Office of the Provost Marshal
- The Office of the Staff Judge Advocate
- The command or installation chaplain
- Medical agency personnel
- Chief, Community Housing Referral and Relocation Services Office

6. As a reminder, Soldiers who knowingly submit a false EO complaint (a complaint containing information or allegations that the complainant knew to be false) may be punished under UCMJ.